Application No.: 10/642,928	§	Examiner: Shaw, Peling Andy
Filed: August 18, 2003	§	Group/Art Unit: 2144
Inventors:	§	Atty. Dkt. No: 5681-66300
Ray Y. Lai	§	
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Title: STRUCTURED	§	
METHODOLOGY AND	§	
DESIGN PATTERNS FOR	§	
WEB SERVICES	§	

PETITION UNDER 37 CFR 1.144

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is submitted as a petition under 37 CFR 1.144 from the restriction requirement stated in the Office Action dated June 29, 2007.

In the Office Action dated June 29, 2007, the Examiner presented a restriction requirement requiring election of one of four enumerated inventions. Applicant subsequently elected Invention II (as enumerated by the Examiner) with traverse and presented reasons for traversal in the response filed August 2, 2007. In the Action dated October 17, 2007, the Examiner responded to Applicant's timely traversal, but missed Applicant's election and thus asserted that Applicant's reply was not fully responsive. In a reply filed on November 19, 2007, Applicant pointed out this oversight to the Examiner, who acknowledged the mistake in the Action dated February 5, 2008. However, the Examiner made the restriction requirement final by maintaining the requirement. Applicant hereby petitions for withdrawal of the restriction requirement for at least the following reasons.

The Examiner required restriction to one of the following inventions as defined by the Examiner:

    I.   Claims 1-17, drawn to electrical computers and digital processing systems: multi-computer data transferring, particularly distributed data processing in client/server, in class 709, subclass 203.

    II.   Claims 18-19, 20-37, and 38-55 drawn to electrical computers and digital processing systems: multi-computer data transferring, particularly remote data accessing using interconnected networks, classified in class 709, subclass 218.

    III.   Claims 56-69, drawn to electrical computers and digital processing systems: multi-computer data transferring, particularly network computer configuring, classified in class 709, subclass 220.

    IV.   Claims 70-80, drawn to electrical computers and digital processing systems: multi-computer data transferring, particularly network resources access controlling in computer-to-computer session/connection establishing, classified in class 709, subclass 229.

Applicant traverses the restriction requirement on the grounds that the Examiner has failed to state a proper requirement for restriction under 35 U.S.C. § 121, as explained below.

The Examiner states that each of Inventions I-IV are related to one another as subcombinations disclosed as usable together in a single combination." However, none of Inventions I-IV are *disclosed* as *subcombinations* usable together *in a single combination*. A proper restriction requirement under M.P.E.P. 806.05(d) requires that the subcombinations "**do not overlap in scope**". However, while not having identical scope, each of the present independent claims has clear <u>overlap</u> in scope. The Examiner appears to have misunderstood the concept of subcombinations usable together in a single combination. For a proper restriction, subcombinations are separate and distinct non-

overlapping components of a larger system (the combination). For example, a seat bracket and a gear mechanism are subcombinations of a bicycle (the combination). A seat bracket and a gear mechanism are separate and distinct components that do not overlap in scope (i.e., are mutually exclusive). The independent claims of the present application are clearly not directed to separate non-overlapping subcombinations. To the contrary, they all pertain to employing or generating a vendor-independent web service architecture. While there are differences in scope between the independent claims, the independent claims also clearly <u>overlap</u> in scope and are thus not restrictable as subcombinations under M.P.E.P. 806.05(d).

Furthermore, according to M.P.E.P. 806.05(d), to state a proper restriction requirement for subcombinations usable together in a single combination, "[t]he Examiner must show, by way of example, that one of the subcombinations has utility **other than in the disclosed combination**." Moreover, M.P.E.P. 806.05(d) also states that "the burden is on the Examiner" to make this showing. The Examiner appears to have misunderstood the requirement for a subcombination to have utility *other than in the disclosed combination*. The Examiner merely points to differences between the claims. However, **by definition**, true subcombinations will always have different utility *with respect to one another* by their very nature of being separate and distinct non-overlapping components of a larger system (combination). The requirement of M.P.E.P. 806.05(d) is that a subcombination have a "utility **other than in the disclosed combination**." All the examples given by the Examiner clearly apply to the same overall combination as disclosed in the specification. Therefore, the Examiner has not stated a proper restriction requirement.

Another shortcoming of the Examiner's restriction requirement is in regard to the requirement of M.P.E.P. § 808 for the Examiner to also show "reasons why there would be a serious burden on the examiner if restriction is not required". In regard to this requirement, the Examiner states that the inventions have acquired a separate status in the art as shown by their different classification. Applicants traverse the Examiner's

statement. From even the most casual reading of Applicants' specification and claims, it is clear that any of the asserted classifications could apply to all the claim groups.

For example, the Examiner states that Group I is classified as class 709, subclass 203 and that group II is classified as class 709, subclass 218. According to the Manual of Classification, the definition of class 709 is for an electrical computer or digital data processing system or corresponding data processing method including apparatus or steps for transferring data or instruction information between a plurality of computers wherein the computers employ the data or instructions before or after transferring and the employing affects said transfer of data or instruction information. Subclass 203 is indented from subclass 201 and is thus defined as pertaining to subject matter wherein separate computers performing different tasks share data to accomplish an overall goal, and wherein at least one local computer provides a user interface and performs local data processing to interact with at least one remote computer which implements data processing within a generic time-sharing environment in response to the local computer to transfer data between the local computer and the remote computer. Subclass 218 is indented from subclass 217 and is thus defined as pertaining to subject matter wherein computers located at distant sites transfer data via at least one dedicated communications line (e.g., a telephone connection), and wherein independent computers are linked by one or more interconnected networks (e.g., wide area networks (WANs), the "Internet").

From even the most casual reading of Applicant's disclosure and claims, anyone of ordinary skill in the art would recognize that both of these classifications could apply to embodiments of the other claim group. For example, although embodiments of the invention as recited in the claims of Group I could perhaps be employed for an electrical computer or digital data processing system or corresponding data processing method as in Class 709, subclass 203, that is clearly not the focus Applicants' disclosed subject matter. Applicants' disclosed subject matter pertains to the field of Web Services, and more particularly to a system and method for providing a generic, vendor-independent Web Services architecture incorporating a structured methodology and design patterns for designing and implementing Web Services. Claim 1 (Group I) does not require (or

exclude) any aspect of "separate computers performing different tasks share data to accomplish an overall goal", or "at least one local computer provid[ing] a user interface and perform[ing] local data processing to interact with at least one remote computer which implements data processing within a generic time-sharing environment in response to the local computer to transfer data between the local computer and the remote computer." Likewise, claim 18 (Group II) does not require (or exclude) any aspect of "separate computers performing different tasks share data to accomplish an overall goal", or "at least one local computer provid[ing] a user interface and perform[ing] local data processing to interact with at least one remote computer which implements data processing within a generic time-sharing environment in response to the local computer to transfer data between the local computer and the remote computer." Furthermore, claim 20, in Group II, recites *implementing the Web Service according to the Web Service architecture*. Thus, class 709, subclass 203 could apply to both the claims in Group I and in Group II as grouped by the Examiner.

Furthermore, claim 18 (Group II) clearly does not require (or exclude) any aspect of "computers located at distant sites transfer[ring] data via at least one dedicated communications line", or "independent computers linked by one or more interconnected networks," nor does claim 1 (Group I) require (or exclude) the above. In addition, claim 1, in Group I, recites *one or more service requesters configured to access the one or more services from the service provider via a network*. Thus, class 709, subclass 218 could apply to both the claims in Group I and in Group II as grouped by the Examiner.

For similar reasons, both class 709, subclass 203 and class 709, subclass 218 could apply to claims in Group III and Group IV.

As another example, the Examiner states that Group III is classified as class 709, subclass 220, "electrical computers and digital processing systems: multi-computer data transferring, particularly network computer configuring." Claim 56 in Group III recites a *method for designing and implementing a vendor-independent Web Service architecture*. Claim 1 of Group 1 recites *wherein the Web Service system is configured according to a*

vendor-independent architecture framework for designing Web Services comprising a plurality of heterogeneous components in accordance with a structured methodology and one or more design patterns; claim 18 of Group II recites a *system for generating a vendor-independent Web Service architecture comprising a plurality of heterogeneous components,* and claim 70 of Group IV recites a *method for designing and implementing a vendor-independent Web Service architecture* which is similar to, but different in some aspects, from the method recited in claim 56 of Group III. Clearly, claims in all four Groups include subject matter related to *designing and implementing a vendor-independent Web Service architecture* as recited in claim 56, and from the specification it is clear that the asserted classification could apply to all the claims.

As yet another example, the Examiner states that Group IV is classified as class 709, subclass 229, "electrical computers and digital processing systems: multi-computer data transferring, particularly network resources access controlling in computer-to-computer session/connection establishing." The Examiner's reasoning appears to be based on the fact that claim 70 recites "security components", "security protection", and "security levels" in regards to a method for designing and implementing a vendor-independent Web Service architecture. However, dependent claims 8, 12, 13, and 16 in Group I, dependent claims 28, 32, 33, 36, 46, 50, 51, and 54 in Group II, and dependent claims 64, 66, and 69 in Group III all include subject matter related to security in a vendor-independent Web Service architecture, and from the specification it is clear that the asserted classification could apply to all the claims.

Thus, the classifications do not establish that each claim group has acquired a separate status in the art. Proper "reasons why there would be a serious burden on the examiner if restriction is not required" cannot be based on such obviously inaccurate classifications that each could apply to all the claim groups. Therefore, the restriction requirement is improper.

The Examiner's response to Applicant's traversal in the Action dated October 17, 2007, fails to overcome Applicant's above arguments. The Examiner merely states:

"Applicant argues that the restriction requires 'do not overlap' or 'mutually exclusive' inventions. No such requirement exists." However, as explicitly stated in the M.P.E.P., such a requirement most certainly does exist. A proper restriction requirement under M.P.E.P. 806.05(d) requires that the subcombinations **"do not overlap in scope"**. This requirement comes straight from the section of the M.P.E.P. upon which the Examiner's restriction requirement is based. *See, also*, M.P.E.P. 806.05 and M.P.E.P. 806.05(j) **which equate the requirement of "do not overlap in scope" with "mutually exclusive."** M.P.E.P. 806.05(d) explicitly states: "Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually restrictable **when the subcombinations do not overlap in scope** and are not obvious variants." (emphasis added). Thus, contrary to the Examiner's assertion, there is clearly a requirement for no overlap in scope (i.e., mutually exclusive) for restriction under M.P.E.P. 806.05(d). Subcombinations are separate, non-overlapping components of a combination. In other words, subcombinations usable together in a single combination are two non-overlapping and mutually exclusive components of a larger combination. For example, a claim to a seat bracket and a claim to a gear mechanism could be two separate subcombinations usable together in a bicycle combination. The seat bracket and the gear mechanism would be two non-overlapping (i.e., mutually exclusive) parts (i.e., subcombinations) of the bicycle, where the bicycle is a "combination" of its parts (subcombinations). The Examiner has clearly misapplied the concept of "subcombinations disclosed as usable together in a single combination" to Applicant's claims per M.P.E.P. 806.05(d).

Moreover, the Examiner appears to have ignored Applicant's other reasons for traversing the restriction requirement. Applicant also argued that the Examiner did not show, by way of example, that each of the subcombinations has utility other than in the disclosed combination, as is required by M.P.E.P. 806.05(d). Applicant also argued that the Examiner did not show valid "reasons why there would be a serious burden on the examiner if restriction is not required" as is required by M.P.E.P. § 808. Thus, the Examiner has failed to establish a proper requirement for restriction. Withdrawal of the restriction requirement and examination of all claims is respectfully requested.

CONCLUSION

In light of the above remarks, Applicant requests that the restriction requirement be withdrawn and all claims be examined.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant hereby petitions for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5681-66300/RCK.

Respectfully submitted,

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